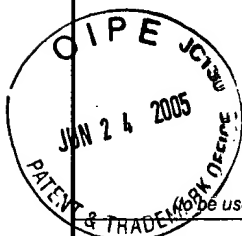


06-24-05

AK/1636
PTO/SB/21 (09-04)
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL
FORM

To be used for all correspondence after initial filing)

Total Number of Pages in This Submission 8

Application Number	09/782,255
Filing Date	February 14, 2001
First Named Inventor	BRUCE M. HELD
Art Unit	1636
Examiner Name	N. Vogel
Attorney Docket Number	1205-009

ENCLOSURES (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input checked="" type="checkbox"/> Amendment / Reply
<input checked="" type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Certified Copy of Priority Documents
<input type="checkbox"/> Response to Missing Parts/Incomplete Application
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Express Mailing Label
EV211073018US |
|---|--|---|

Remarks

RECEIVED
OIPE/IAP

JUN 27 2005

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	JONDLE & ASSOCIATES P.C.		
Signature	<i>Kenyon L. Schuett</i>		
Printed Name	KENYON L. SCHUETT		
Date	JUNE 23, 2005	Reg. No.	44,324

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

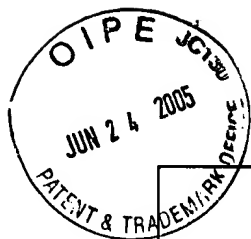
Signature

Typed or printed name

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option



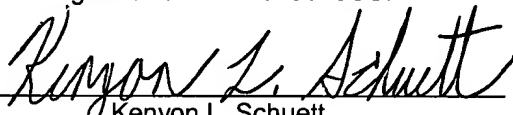
**IN THE
UNITED STATES
PATENT AND TRADEMARK
OFFICE**

<i>Application Number</i>	09/782,255
<i>Filing Date</i>	February 14, 2001
<i>First Named Inventor</i>	Bruce Marvin HELD
<i>Group Art Unit</i>	1636
<i>Examiner Name</i>	Nancy S. Vogel
<i>Attorney Docket Number</i>	N1205-009

Title of the Invention: **Promoter and Construct for Plant Transformation**

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (post office to addressee) in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, PO Box 1450, Alexandria VA 22313-1450 on this 23rd day of June 2005. The number of the Express Mail mailing label is EV211073018US.


Kenyon L. Schuett
Reg. No. 44,324

AMENDMENT

Mail Stop Amendment
Commissioner of Patents
P O Box 1450
Alexandria VA 22313-1450

Sir:

In response to the Final Office Action mailed April 26, 2005, please consider the following remarks.

REMARKS

The Examiner has rejected claims 43-45 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; specifically that the claims as amended contain new matter which is unsupported by the specification. Applicant directs the Examiner's attention to Example 1, pages 12-13, of the specification in which construction of the MuA promoter is detailed. The MuA promoter has 79% homology with the CaMV 35S promoter which was used as the template. Figure 3